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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ION BAROI, et al.,

Plaintiffs,

vs.

PLATINUM CONDOMINIUM  
DEVELOPMENT, LLC,  
MARCUS HOTELS, INC., AND  
MARCUS MANAGEMENT LAS  
VEGAS, LLC,

Defendants.

Case No.: 2:09-CV-00671-PMP-GWF

THIS DOCUMENT APPLIES TO:  
ALL RELATED ACTIONS

**PLAINTIFFS STEPHEN AND CATHEY  
GOODMAN'S MOTION TO  
SUBSTITUTE BANKRUPTCY TRUSTEE  
AS PARTY IN INTEREST AND  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT THEREOF**

COME NOW two of the Plaintiffs, Stephen and Cathey Goodman, and move this Honorable Court for entry of an Order substituting the trustee in their Chapter 7 bankruptcy proceeding in the United States Bankruptcy Court for the District of Arizona, No. 2-09-bk-21580-SSC, S. William Manera, as a plaintiff in this proceeding, as any proceeds realized in this proceeding will inure to the benefit of the Goodmans' bankruptcy estate. Mr. Manera has retained Plaintiffs' counsel listed below to represent the interest of the Goodman bankruptcy estate in this proceeding.

///

1 WHEREFORE, premises considered, Stephen and Cathey Goodman pray this Honorable  
2 Court will enter an Order substituting the trustee, S. William Manera, as a plaintiff in this matter.  
3 Stephen and Cathey Goodman seek such other further and different relief that the Court deems  
4 appropriate, premises considered. Oral argument is not requested.  
5

6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 Stephen and Cathey Goodman filed a Chapter 7 bankruptcy proceeding in the United  
8 States Bankruptcy Court for the District of Arizona, No. 2-09-bk-21580-SSC. S. William Manera  
9 is the trustee in bankruptcy. Mr. Manera has retained the undersigned as counsel to represent the  
10 bankruptcy estate's interest in this action, with approval of the United States Bankruptcy Court for  
11 the District of Arizona by Order dated September 2, 2011.  
12

13 "The interests of the debtor [in bankruptcy] in property include causes of action." *In re*  
14 *Van Dresser Corp.*, 128 F.3d 945, 948 (6th Cir. 1997). The trustee becomes the representative of  
15 the estate, 11 U.S.C. § 323(a), responsible for "collect[ing] and reduc[ing] to money the property  
16 of the estate," 11 U.S.C. § 704(a)(1). The trustee has the capacity to sue. 11 U.S.C. § 323(b). A  
17 debtor in a Chapter 7 bankruptcy imparts upon the trustee the exclusive right to assert the debtor's  
18 claims, *Van Dresser*, 128 F.3d at 948, thereby rendering the trustee the only real party in interest  
19 under Fed. R. Civ. P. 17(a) if the trustee elects to pursue the claim. *Maerki v. Wilson*, No. 93-  
20 3857, 1995 WL 242004, at \* 2 (6th Cir. Apr. 25, 1995); *In re Bard*, 49 F. App'x 528, 529 (6th  
21 Cir. 2002).  
22

23 WHEREFORE, premises considered, Stephen and Cathey Goodman pray this Honorable  
24 Court will enter an Order substituting the trustee, S. William Manera, as a plaintiff in this matter.  
25 Stephen and Cathey Goodman seek such other further and different relief that the Court deems  
26 appropriate, premises considered.  
27  
28

1 RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of November, 2011.

2 /s/ Don Springmeyer

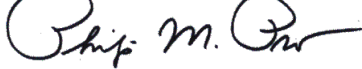
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27 Attorneys for Plaintiffs

28 IT IS SO ORDERED



PHILIP M. PRO, UNITED STATES DISTRICT JUDGE

Dated: November 28, 2011.

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP, and that I served a true and correct copy of the foregoing on this 4th day of November, 2011 via the Court's ECF system, which will serve notice of the above, upon the following:

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